

Appendix K



USFWS

Visitors ride on tram while viewing the refuge.

Summary of Public Comments and Service Responses on the Draft Comprehensive Conservation Plan and Environmental Assessment for the Back Bay National Wildlife Refuge

- Public Involvement Summary
- List of Preparers

Summary of Public Comments and Service Responses on the Draft Comprehensive Conservation Plan and Environmental Assessment for the Back Bay National Wildlife Refuge

Introduction

In March 2010, we completed the “Back Bay National Wildlife Refuge Draft Comprehensive Conservation Plan and Environmental Assessment” (Draft CCP/EA). That draft refuge plan outlines three alternatives for managing the refuge over the next 15 years, and identifies Alternative B as the “Service-preferred Alternative.” We released the draft plan for 33 days of public review and comment from March 30 to May 1, 2010.

We evaluated all the letters and e-mails sent to us during that comment period, along with comments recorded in our two public meetings. This document summarizes those comments and provides our responses to them. Based on our analysis in the Draft CCP/EA, and our evaluation of comments, we modified Alternative B, and recommended it to our Regional Director for implementation. It is that modified Alternative B which is detailed in this CCP. Our modifications include additions, corrections, or clarifications of our preferred management actions. We have also determined that none of those modifications warrants our publishing a revised or amended draft CCP/EA before publishing the CCP.

These are some important changes we made.

1. We have no objections to the concept of the Lago Mar to Sandbridge Trail (the route of which is not yet specifically defined or mapped but would primarily be a City of Virginia Beach project along their right-of-way), but the refuge cannot make a determination until we complete a NEPA analysis. The analysis will occur after we receive the City of Virginia Beach’s plan, which should include details on developing a trailhead and spur from the proposed new Refuge Visitor Center to the Lago Mar portion of the trail. We have included a map of the City’s proposed trail near Sandbridge Road that was not included in the draft CCP/EA.
2. We inserted language recognizing the important partnership we have with state agencies and the need to follow required state regulations during construction of new facilities.
3. We clarified with much greater detail the goals, objectives, strategies and rationale of the refuge management direction, especially in terms of habitat management.
4. We corrected all format and typographical errors that were brought to our attention.

Our Regional Director will either select our modified Alternative B for implementation, or one of the other two alternatives analyzed in the Draft CCP/EA, or a combination of actions from among the three alternatives. He will also determine whether a Finding of No Significant Impact (FONSI) is justified prior to finalizing his decision. He will make his decision after:

- Reviewing all the comments received on the Draft CCP/EA, and our response to those comments; and,

- Affirming that the CCP actions support the purpose and need for the CCP, the purposes for which the refuge was established, help fulfill the mission of the Refuge System, comply with all legal and policy mandates, and work best toward achieving the refuge's vision and goals.

Concurrent with release of the approved CCP, we are publishing a notice of the availability in the Federal Register. That notice will complete the planning phase of the CCP process, and we can begin its implementation phase.

Summary of Comments Received

Given our interest in an objective analysis of the comments we received, we enlisted the U.S. Forest Service's Recreation Solutions Enterprise Team (FS) in compiling a database that would identify and code specific issues and concerns. That team has particular expertise in providing unbiased analyses of public comments on major proposals by federal land management agencies, a process called "content analysis". The team evaluated and coded all of the comments we received, including all letters, e-mails, and comments recorded at public meetings. Our responses below follow the subject headings in their coding structure.

During the comment period, 162 letters were received representing 174 individual signatures. A total of 90 individual comments were assessed during the content analysis process. Additionally, public meetings were held in Virginia Beach on April 13, 2010 (Three Oaks Elementary School) and April 14, 2010 (Ashville Bridge Creek Environmental Education Center).

We received a consolidated letter compiled by the Virginia Department of Environmental Quality which included comments from nine local and state agencies listed below. We either refer to that letter herein as the "VA DEQ" letter, or refer to respective agency comments.

- Virginia Department of Environmental Quality (VA DEQ)
- Virginia Department of Agriculture and Consumer Services
- Virginia Department of Conservation and Recreation (VA DCR)
- Virginia Department of Health (VA DH)
- Virginia Marine Resources Commission (MRC)
- Virginia Department of Historic Resources (VA DHR)
- Virginia Department of Forestry (VA DOF)
- City of Virginia Beach (City)
- Hampton Roads Planning District Commission

The Virginia Department of Game and Inland Fisheries also submitted a separate letter.

In the discussions below, we address every substantive comment received. Occasionally, the FS would code the same comment under two or more subject headings. In our responses, we may refer the reader to other places in this document where we address the same comment. Directly beneath each subject heading, you will see a list of unique letter ID numbers that correspond to the person, agency or organization that submitted the comment. The cross-referenced list appears at the end of this appendix. A large majority of the letters received commented on the transportation system of roads and trails, specifically support for expansion of a trail system from Lago Mar to Sandbridge. A petition was also signed to expand the rustic trail system adjacent to the Lago Mar neighborhood. Multiple members of the following groups submitted comments: Virginia Beach Advisory Committee on Bikeways and Trails, Lago Mar Civic League Members, Back Bay Restoration Foundation, and the Tidewater Appalachian Trail Club

In several instances, we refer to specific text in the Draft CCP/EA, and indicate how the CCP was changed in response to comments. You have several options for obtaining the full version of either the Draft CCP/EA or the CCP. They are available online at http://www.fws.gov/northeast/planning/Back_Bay/ccphome.html. For a CD-ROM or a print copy, contact the refuge headquarters.

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Service Responses to Comments by Subject

Planning and Public Involvement

Comment Period (Letter ID#: 11)

One respondent would like the comment period extended.

We did not officially extend the comment period with a public notification, but did accept all comments for an additional week (to May 10, 2010).

Document (Clarity, Technical, Editorial, Availability) (Letter ID#: 59, 74)

On page 1-20, 3rd paragraph, ownership of the bay needs clarification. The bottom of the bay is owned by the Commonwealth of Virginia and the man-made canals are within the Refuge boundary and owned by the Refuge.

For the most part, the bay bottom is owned by the Commonwealth. Some man-made canal bottoms were owned by the Refuge as a result of our land acquisition program. The Refuge conducted a land exchange with the City of Virginia Beach to transfer Refuge owned canal bottoms to the City, where conflicts with private upland landowners could be addressed with less problems.

In Chapter 1, the reference and Website to Virginia's Comprehensive Wildlife Conservation Plan need to be updated to "Virginia's Wildlife Action Plan" and <http://bewildvirginia.org>.

These corrections have been made in the final CCP.

In Chapter 2, the Draft CCP references Virginia State Conservation Officers. This should state VDGIF's Conservation Police Officers.

This correction has been made in the final CCP.

Request for Information or Meeting (Letter ID#: 64, 68, 73)

One respondent requested a hard copy of the draft plan be sent to three different individuals. The Virginia Department of Game and Inland Fisheries requested a Web address for reviewing an electronic version of the CCP/EA and would like to know the process for submitting comments. Another respondent offered to volunteer at Back Bay National Wildlife Refuge.

Hard (paper) copies of the draft plan were sent to all persons requesting. The state agencies were provided a web address to view the document, as well as copies on CD and printed versions. Information about the Refuge's volunteer program and associated opportunities was mailed to the requester.

The City of Virginia Beach requested the Service to advertise and conduct a public information meeting to inform the general public of the project scope, schedule and potential impacts once the document is finalized.

No public meetings are required at this stage of the planning process, and no meetings are currently scheduled.

Alternatives

Alternative B: Enhanced Habitat Diversity and Visitor Opportunities (Service-preferred Alternative) (Letter ID#: 2, 68, 73, 74)

Several respondents prefer the Service-preferred Alternative (B) over Alternatives A and C. One local resident supports the effort outlined in Alternative B to establish a new HQ/Administration building on a relocated section of New Bridge Road. Support is also voiced for developing new hiking and canoe/kayak trails under Alternative B. One commenter noted some difficulty in grasping some of the proposed refuge management practices under Alternatives B and C, but supported the refuge's stated mission and the refuge staff's efforts to carry it out.

The City of Virginia Beach agrees that Alternative B "is the best alternative for future development, habitat restoration and environmental protection purposes. It best balances the needs for wildlife, habitat and public use of the Refuge. Furthermore, the preferred alternative affords the City and the Refuge a strong opportunity to continue and enhance the tremendous arrangement that the City and the Service had."

We clarify with much greater detail the goals, objectives, strategies and rationale of the refuge management direction in the final CCP (Chapter 4, Management Direction and Implementation - Goals, Objectives and Strategies). We appreciate the support for our recommended alternative.

Refuge Physical, Natural and Biological Resources Refuge Administration

Partnerships (Including Volunteers) (Letter ID#: 74)

One commenter supports increased opportunities for volunteer involvement and educational events both on and off the Refuge, as outlined in Goal 7 of the Draft CCP/EA.

We appreciate the support for our recommended alternative.

Visitor Services (Letter ID#: 56, 74)

One respondent supports outreach education and visitor services, but questions the plan to expand

visitor facilities when the “Rightmeirer house is about to come on line.”

The Service has recently made structural repairs and energy-efficient improvements to a former residence (Rightmier House) on refuge property along Sandbridge Road under the American Recovery and Reinvestment Act. The refuge will move its administrative offices into the rehabilitated in-town facility in 2010 to better service the community. The primary purpose of the building is to serve as office space for refuge staff. However, there remain some difficulties with access and parking on the site, making it less suitable for visitors and public use than the proposed headquarters and visitor center that would be developed across the street at Tract #244.

Interagency Coordination (Letter ID#: 73, 74)

The Virginia Department of Environmental Quality (VA DEQ) stated that prior to implementation of any planned construction activities, the Service is required to submit a federal consistency determination (FCD) to the VA DEQ, and comments extensively on the regulatory and coordination requirements of implementing the CCP. Much of what is referenced involves meeting local and state regulatory requirements and obtaining the correct permits before developing new facilities.

We will adhere to all applicable permit rules and regulations required for national wildlife refuges, and to insure full compliance with the Coastal Zone Management Act and federal consistency regulations implementing the Act. There were other management recommendations in the VA DEQ letter which we discuss under each respective subject heading below. Most of those recommendations are added to our CCP as strategies.

The Virginia Department of Game and Inland Fisheries (VA DGIF) offer assistance in determining likely impacts upon fish and wildlife resources and habitats.

We will include the following recommendation as a strategy for protecting fish and wildlife in Chapter 4 (Management Direction and Implementation - Goals, Objectives and Strategies): “We will continue to work closely with VA DGIF to develop specific wildlife and fisheries management strategies, protect listed species and valuable resources, and manage hunting and fishing programs” (Goal 7, Objective 7a).

Solid and Hazardous Waste Management (Letter ID#: 73)

State and local agencies commenting on the CCP state that all solid waste, hazardous waste and hazardous materials must be managed in accordance with all applicable federal, state and local environmental regulations, when implementing the CCP.

The VA DEQ Waste Division commented that only solid waste issues were addressed in the report, although a GIS database search did not reveal any waste sites within a half-mile radius that would impact or be impacted by the subject site. A cursory review of its data files listed several solid waste sites located within the project zip code, but VA DEQ is unsure of the project proximity of these sites.

The VA DEQ commented that all structures being demolished should be checked for asbestos-containing materials and lead-based paint prior to demolition. If found, federal and state regulations must be followed. They also encourage construction projects and facilities to implement pollution prevention principles. If petroleum-contaminated soils are generated during construction, they must be characterized and disposed of properly.

The VA DEQ and City of Virginia Beach commented on the sewage system discussed on page 4-27 of the CCP, and requested the Service ensure compliance with the Sewage Collection and Treatment (SCAT) Regulations. Potential impacts to public water distribution systems or sanitary sewage collection systems must be verified by the local utility.

We include these recommendations in the CCP. They have been added to Chapter 4, Management Direction and Implementation.

Air Quality (Letter ID#: 73)

The VA DEQ and City of Virginia Beach request that during construction activities, all state and local regulations and coordination requirements are followed to restrict the emissions of VOCs and NOx. They specifically mention asphalt paving operations, fugitive dust and emissions control, and open burning activities.

We will adhere to all requirements for permits and consultations that apply to national wildlife refuges. In addition, we will include the following strategies for minimizing fugitive dust during construction in the CCP in Chapter 4 (Management Direction and Implementation - Goals, Objectives and Strategies):

- *Use, where possible, water for dust control*
- *Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials*
- *Covering of open equipment for conveying materials*
- *Prompt removal of spilled or tracked dirt or other materials from paved streets and removal of dried sediments resulting from soil erosion.*

Water Resources (Letter ID#: 73)

The Virginia Department of Health, Office of Drinking Water noted that construction projects may include support infrastructure such as the use of septic systems or potable water; however, it does not state whether the potable water would originate from a well or public water supply system. They also stated, “no groundwater wells are within a 1-mile radius and no surface water intakes are located within a 5-mile radius of the project site. The project does not fall within Zone 1 or Zone 2 of any public surface water sources. There are no apparent impacts to public drinking water sources due to this project.”

The VA DEQ also recommends that the FWS consider water conservation measures, such as native landscaping and low-flow toilets when implementing construction projects.

We will adhere to all requirements for permits and consultations that apply to national wildlife refuges. In addition, we will include the following recommendations for protecting water resources as strategies in CCP Chapter 4, (Management Direction and Implementation - Goals, Objectives and Strategies):

- *Grounds should be landscaped with hardy native plant species to conserve water as well as minimize the need to use fertilizers and pesticides.*
- *Convert turf to low water-use landscaping such as drought resistant grass, plants, shrubs and trees.*
- *Low-flow toilets should be installed in new facilities.*
- *Consider installing low-flow restrictors/aerators to faucets.*
- *Improve irrigation practices by upgrading with a sprinkler clock; watering at night, if possible, to reduce evapotranspiration; installing a rain shutoff device; and collecting rainwater with a rain bucket or cistern system with drip lines.*
- *Consider replacement of old equipment with new high-efficiency machines to reduce water usage by 30-50 percent per use.*
- *Check for and repair leaks (toilets and faucets) during routine maintenance activities.*

Wetlands (Letter ID#: 73)

The VA DEQ Tidewater Regional Office (TRO) states “that the vast majority of activities proposed under Alternatives B and C are related to the management or enhancement of wetland areas in a manner that would not normally require regulatory authorization. However, it is possible that some of these activities would require review through DEQ’s permitting program. The VPDES permitting section states that the permits under its jurisdiction would not apply to the project.” The Service should seek compliance early in the process and prior to initiating impacts to surface waters and wetlands to ensure that necessary permits are obtained in advance.

The VA DEQ additionally recommends that stream and wetland impacts be avoided to the maximum extent practicable when implementing construction activities.

We will adhere to all requirements for permits and consultations that apply to national wildlife refuges. In addition, we will include the following recommendations for protecting wetlands as strategies in CCP Chapter 4:

- *Operate machinery and construction vehicles outside of stream-beds and wetlands; use synthetic mats when in-stream work is unavoidable.*

- *Preserve the top 12 inches of material removed from wetlands for use as wetland seed and root-stock in the excavated area.*
- *Place heavy equipment, located in temporarily impacted wetland areas, on mats, geotextile fabric, or use other suitable measures to minimize soil disturbance, to the maximum extent practicable.*
- *Restore all temporarily disturbed wetland areas to pre-construction conditions and plant or seed with appropriate wetlands vegetation in accordance with the cover type (emergent, scrub-shrub or forested). The applicant should take all appropriate measures to promote re-vegetation of these areas. Stabilization and restoration efforts should occur immediately after the temporary disturbance of each wetland area instead of waiting until the entire project has been completed.*
- *Place all materials which are temporarily stockpiled in wetlands, designated for use for the immediate stabilization of wetlands, on mats or geotextile fabric in order to prevent entry in state waters. These materials should be managed in a manner that prevents leachates from entering state waters and must be entirely removed within thirty days following completion of that construction activity. The disturbed areas should be returned to their original contours, stabilized within thirty days following removal of the stockpile, and restored to the original vegetated state.*
- *All non-impacted surface waters within the project or right-of-way limits that are within 50 feet of any clearing, grading or filling activities should be clearly flagged or marked for the life of the construction activity within that area. The project proponent should notify all contractors that these marked areas are surface waters where no activities are to occur.*
- *Measures should be employed to prevent spills of fuels or lubricants into state waters.*
- *Maintain undisturbed wooded buffers of at least 100 feet in width around all onsite wetlands and on both sides of all perennial and intermittent streams.*

Subaqueous Lands (Letter ID#: 73)

The Virginia Marine Resources Commission (VMRC) commented that they regulate encroachments in, on or over state-owned subaqueous beds as well as tidal wetlands pursuant to Virginia state law. The Service should contact VMRC when planning for construction projects or prior to exploring or recovering underwater historic artifacts, to ensure compliance.

We will adhere to all requirements for permits and consultations that apply to national wildlife refuges.

Soils

Erosion and Sediment (Letter ID#: 73)

The VA DEQ commented that when implementation of construction occurs, the “FWS and its authorized agents conducting regulated land-disturbing activities on private and public lands in the state must comply with the Virginia Erosion and Sediment Control Law and Regulations (VESCL&R) and Virginia Stormwater Management Law and Regulations. . . Additionally, the FWS must prepare and implement an erosion and sediment control plan to ensure compliance with state law and regulations.”

We will adhere to all requirements for permits and consultations that apply to national wildlife refuges. Prior to implementation, erosion and sedimentation controls would be designed in accordance with the most current edition of the Virginia Erosion and Sediment Control Handbook. These controls would be in place prior to clearing and grading, and maintained in good working order to minimize impacts to state waters. The controls would remain in place until the area is stabilized.

Vegetation (Letter ID#: 73)

A comment was received regarding Back Bay National Wildlife Refuge being a Virginia state conservation site, as classified by Virginia’s Department of Conservation and Recreation (DCR). According to this classification, the site has very high biodiversity significance.

The DCR recommends maintaining freshwater pool habitats and restoring natural maritime upland and wetland communities, including allowing some of the impoundments to revert to scrub-shrub wetlands. The DCR also recommends contacting the agency regarding updated information if a significant amount of time passes before the CCP is enacted, and the agency recommends avoiding the documented natural heritage resources within the Refuge.

We appreciate this suggestion, and recognize that increased biodiversity is related to continued maintenance of our freshwater impoundment complex. In 2008, our adaptive management approach resulted in the same conclusion that Virginia DCR suggests. Refuge biological staff regularly analyze the productivity of our freshwater impoundments. The Refuge concluded that one impoundment (G-Pool) had consistently failed to meet the goals and objectives that it was constructed and actively managed for. These goals and objectives revolved around consistent use by migratory waterfowl (ducks, geese or Tundra swans) during the spring/fall migrations and winter; use by shorebirds (sandpipers, dowitchers, plovers, etc.) during their spring and/or fall migrations; and use by wading birds (herons, egrets, ibis, etc.) throughout the year. G-Pool has consistently registered very little to no use by these migratory waterbirds. The G-Pool vicinity had previously been a back-dune, shrub-scrub habitat. Such habitat is now known to support high use by migratory landbirds during their spring and fall migrations, as well as during their nesting season. As a result, G-Pool is now being managed with a new goal of permitting shrub and forb regrowth that will encourage use

by migrating and nesting landbird species. It will no longer be actively managed for migratory waterbirds. Should other impoundments also fail to meet our freshwater impoundment goals and objectives, they may also be converted to a similar management regime.

Forests (Letter ID#: 73, 74)

Two state agencies commented on the forest resources of the Refuge. The Virginia Department of Forestry found “no significant impact to the forest resources of the Commonwealth” in the CCP. However, the Virginia Department of Game and Inland Fisheries cautioned against using green ash in the preferred alternative when enhancing and preserving the native woodlands. The agency cites the recent destruction of these trees in Northern Virginia by the non-native emerald ash borer as a reason for concern. The comment says that although the emerald ash borer is unlikely to spread, it is recommended to consult with the Virginia Department of Forestry to develop an alternate species.

Some planting of Green ash (along with oaks, tupelos and Bald cypress) has already occurred on parts of the Refuge. The Service will monitor newly planted Green ash trees for signs of the non-native beetle, and will immediately consult with the Virginia Department of Forestry if any Emerald ash borers are found.

Agricultural Lands (Letter ID#: 73)

One comment was received regarding agricultural lands on the Refuge. The Virginia Department of Agriculture and Consumer Services (VDACS) noted that approximately 100 acres of cropland would be allowed to naturally convert to shrub-scrub habitat. The commenter encourages the “FWS to minimize the transfer of agricultural land to non-agricultural purposes in the development of this project.”

The decline in farmlands in Virginia is particularly troubling to us when the land is sold for development or otherwise results in habitat loss. Service policy (601 FW 3 Biological Integrity, Diversity and Environmental Health) states that “We do not allow refuge uses or management practices that result in the maintenance of non-native plant communities unless we determine that there is no feasible alternative for accomplishing refuge purpose(s). For example, where we do not require farming to accomplish refuge purpose(s), we cease farming and strive to restore natural habitats.” The Refuge Manager has determined that farming is not required to achieve Refuge purposes, and lands formerly in agriculture can be restored to create more benefits for wildlife than when farmed. We believe that we have taken a phased, measured approach to eliminating farming so we can appropriately restore these lands to natural habitats.

Invasive Plant Species (Letter ID#: 74)

One commenter recommended clarification in the document regarding invasive plants. They recommended “monitoring invasive plants, such as *Vitex rotundifolia*, which are present near the

Refuge border and which may spread onto the Refuge under suitable conditions.”

We will include the above recommendation as an additional strategy for protecting fish and wildlife in Chapter 4 (Management Direction and Implementation - Goals, Objectives and Strategies) and further study the implications of controlling Muscadine grape (Vitis rotundifolia). However, it is our understanding that this wild grape is a native species that provides wildlife food and songbird nesting habitat as well as a very good wine for human consumption. We will research this further.

Wildlife (Letter ID#: 73, 74)

Virginia’s Department of Game and Inland Fisheries had a several comments about wildlife management. The DGIF noted that they are the regulatory agency over fish and wildlife matters in the Commonwealth of Virginia and is a consulting agency under the U.S. Fish and Wildlife Coordination Act.

The DGIF supports Goal 1 of the preferred alternative. In addition to the strategies outlined, they recommend more measures to control the population of feral hogs, noting the ecological damage caused by hogs. They recommend supplementing hunting with trapping in order to control hog populations. Furthermore, the DGIF plans to have feral hog management guidelines completed this summer for Service review.

Finally, the DGIF comments on Goal 4, noting that the Refuge supports “a number of listed species as well as a myriad of other resident and migratory species.” They concur that “habitat restoration, invasive species removal and control, and continued monitoring of wildlife support the mission of the Refuge and the Commonwealth’s wildlife.” They also encourage continued inter-agency cooperation, offering turbidity research that may be useful to the Service.

We will include the following recommendation as a strategy for protecting fish and wildlife in Chapter 4 (Management Direction and Implementation - Goals, Objectives and Strategies): “We will continue to work closely with VA DGIF to develop specific wildlife and fisheries management strategies, protect listed species and valuable resources, and manage hunting and fishing programs” (Goal 7, Objective 7a).

With regards to trapping feral pigs, we concur with the recommendations of VA DGIF as long as they do not conflict with the primary purpose for which the Refuge was established. The past 20 years of Refuge hunting strategies do not appear to be significantly reducing our feral pig population, and the Service agrees that a long term, more successful tool is needed. VA DGIF has provided several traps that will be used to further reduce the local feral hog population later this year and into the future. Refuge biological staff are working closely with the local US Department of Agriculture’s Wildlife Assistance Division and VA DCR’s False Cape State Park in determining when during 2010 to begin such trapping. We appreciate the continued support and partnership of the VA DGIF, and welcome their offer

to assist with turbidity research that may be useful to the Service. Strategies under Goal 1 in the final CCP (Chapter 4) will now read as:

- *Within 2 years, develop partnerships with Virginia Department of Environmental Quality, Virginia Department of Game and Inland Fisheries and local agencies (e.g., Back Bay Restoration Foundation) to collect water quality data that would result in a scientifically sound water quality database for Back Bay and its tributaries. Data from this database would be used to provide the Refuge with sound baseline data for existing Back Bay water quality standards.*
- *Within 5 years, establish an effective and scientifically-sound, interagency water quality monitoring program within the Back Bay watershed to establish sound baseline water quality data, and insure that negative impacts to Back Bay's water quality are detected as soon as possible.*

Migratory Birds (Letter ID#: 59, 74)

A couple of comments were received relating to migratory birds. One commenter noted the benefits that native American lotus has for “waterfowl such as wood duck and teal feeding on the seeds produced in the fall.” They noted that this has been widely published in Virginia Wildlife, Southern Living, and other publications.

Although American lotus is a native species, and a potential food for waterfowl, it can also cause some problems if allowed to spread and become a monoculture. Despite its ornamental qualities, the aquatic flower's large circular leaves can eliminate underwater and above water plant and animal diversity by covering and shading the water's surface, thus excluding the critically needed sunlight from reaching the underwater substrate. These substrates harbor the diverse seed-banks that provide plant diversity, which in turn feeds and provides for increased animal diversity.

Virginia's Department of Game and Inland Fisheries supported additional strategies laid out in Goal 3 to preserve beach and dunes and protect migratory birds and other wildlife habitat. They support the proposal not to grant additional permits to traverse Refuge beaches to access property and support close monitoring of sea turtle nesting.

Threatened and Endangered Species (Letter ID#: 73, 74)

A couple of state agencies commented about threatened and endangered species. The DGIF noted that though the bald eagle is mentioned a number of times in the document, the document fails to state that it is a State threatened species, protected under Virginia's Endangered Species Act.

We regret this oversight. The clarification that the bald eagle is a State threatened species will be in the final CCP.

The Department of Conservation and Recreation's Division of Natural Heritage noted that the Refuge is located within the Back Bay Conservation Site, a highly significant biodiversity site. They recommend avoidance of documented natural heritage resources within the Refuge.

We will work with the Department of Conservation and Recreation's Division of Natural Heritage to avoid documented natural heritage resources within the Refuge.

Historic/Cultural Resources (Letter ID#: 73)

Virginia's Department of Historic Resources (DHR) submitted several comments regarding historic and prehistoric resources. They state that DHR is the state regulatory agency that ensures compliance with the National Historic Preservation Act (NHPA).

Further comments from the agency include proper procedures for complying with the NHPA. They state that permits for exploration and recovery of shipwrecks, which may be substantial in number, must be permitted by VMRC. They also add that the Service should coordinate with DHR in shipwreck reporting and study if the Service is carrying out an action "which may affect a submerged resource."

DHR concurs with the Service on the plan (Chapter 2, pages 2-3 to 2-4) to preserve cultural resources on the Refuge with construction of the proposed headquarters, realignment of the New Bridge Road, and other developments. They add that the Virginia Council on Indians should be invited to review and comment on this document. Finally, they add that since there is no agreement between DHR and Service, any activity that could impact historic resources must be coordinated with DHR.

We received a letter on April 12, 2010 from Roger Kirchen, VA Department of Historic Resources after his review of the Draft CCP/EA. That letter is included as Appendix E. We will adhere to all requirements for permits and consultations that apply to national wildlife refuges, and comply with the NHPA. We will continue our consultation with VA DHR as we plan specific activities. The Draft CCP/EA was made available to all members of the public. The Virginia Council on Indians, the Delaware Tribe of Indians, and the Delaware Nation of Oklahoma were also invited to review and comment. None of the tribes commented.

Local Economy/Socio-economics (Letter ID#: 33)

One letter expressed the belief that the Nimmo to Sandbridge Trail would help the local economy and well-being. It states that in addition to reducing emissions and increasing healthy lifestyles, the trail will bring more visitors to the area. This, in turn, would likely increase local retail sales.

The Nimmo (Lago Mar) to Sandbridge Trail proposal is being considered by the City of Virginia Beach as a part of their trails planning process. The Refuge has no objection to the trail concept, but will not make a determination until after receiving the City's plan and conducting a NEPA analysis.

Property Value (Letter ID#: 6)

One letter stated that the multipurpose trail would improve the quality of life, thus increasing property value. The comment states that this would create more revenue for the city from property and lodging taxes.

We have no objection to the concept of the Lago Mar to Sandbridge Trail (the route of which is not yet specifically defined or mapped but would primarily be a City of Virginia Beach project along their right-of-way), but we cannot make a determination until we complete a NEPA analysis. We recognize that appropriate and compatible outdoor recreation facilities and opportunities significantly contribute to the quality of life. Many studies support the fact that eco-tourism can make a significant contribution to the local tax base.

Public Access (Letter ID#: 60, 72, 74, 76)

Many letters commented on public access, and most are discussed under specific recreational activities. However, one commenter had a general comment, and other letters spoke to multiple activities or specific areas.

One commenter stated in general terms that they supported the proposed opportunities for increased recreation. However, they think it is also imperative to consider the logistics to avoid private property encroachment or compromising public health.

Another letter commented on multiple activities at specific locations of concern. They object to three proposed actions due to concern for their impact on the native American lotus. The objectionable actions are: “1 – Canoe/kayak launches on Sandbridge Road at Ashville Bridge Creek pg. H-27 (map H-5); 2 – Public fishing (Lotus/Hells Point Fishing locations) pg. H-27 & parking (map H-5); 3 – Hiking Trails (Tract 244, Sandbridge Road) goal 5 pg. 2-45”. The commenter states that witnesses have seen canoes and kayaks cutting paths in the lotus and destroying them. Second, fishermen lose their monofilament line in the lotus, creating a hazard for herons and other wildlife. They add that there are visual effects from the line being entangled in overhead utility lines, shoreline bushes, and lotus. Finally, they state that the seeds produced by the lotus in the fall are beneficial to the wildlife. The commenter recommends that the existing Horn Point launch and proposed Sandbridge Road / Hell Point Canal launch “would be sufficient to provide adequate launches for the public for the geographical area.”

We are also concerned about potential negative impacts of the fishing lines and hooks to waterfowl and wading birds, and will consider reducing fishing where lotus is common due to the entanglement and hook-trapping potential that those plants pose.

A petition signed by multiple parties urged the recreational development of the Lago Mar Tract. The petition states the desire to see the old farm roads in the area open to public use. They would like to see more hiking trails “in the southern part of the city comparable to the trail system at First Landing State Park in the northern part of the city.” They also state that local citizens would be willing to patrol the area.

We have no objection to the concept of the Lago Mar to Sandbridge Trail (the route of which is not yet specifically defined or mapped but would primarily be a City of Virginia Beach project along their right-of-way), but we cannot make a determination until we complete a NEPA analysis. The analysis will occur after we receive the City of Virginia Beach's plan, which should include details on developing a trailhead and spur from the proposed new Refuge Visitor Center to the Lago Mar portion of the trail. We have included a map of the City's proposed trail near Sandbridge Road that was not included in the draft CCP/EA. Further trail development within the Lago Mar Tract is not proposed within the scope of this plan, due to staffing, construction, maintenance, and potential trespass issues.

Finally, Virginia's Department of Game and Inland Fisheries supports the Refuge's "proposal to increase opportunities on the Refuge for visitors to participate in wildlife viewing and photography, educational and interpretive programs, and activities that facilitate appreciation of wildlife resources such as canoeing and kayaking." They add that the Refuge is a site on the Seashore to Cypress Loop, part of DGIF's Virginia Birding and Wildlife Trail. DGIF recommends that all new development adheres to best management practices, including low-impact designs and the use of permeable surfaces for trails, parking lots, and other hardened surfaces.

The Refuge cooperates with the City of Virginia Beach in many aspects of outdoor recreation development and management, particularly regarding low-impact public boating access to Back Bay. The Refuge incorporates best management practices and low-impact design and construction materials into all recreation facility development.

Hunting (Letter ID#: 1, 54, 56, 60, 67, 74)

Several letters were received about hunting from the general public. One state agency commented on hunting. Some letters were a general support for hunting or offered a contrary view that hunting is cruel. One letter recommended "deer hunting (perhaps bow) on the north end (north of Sandbridge Road) of the Refuge." Other letters pointed to hunting as the best economical tool to manage wildlife. Another letter voiced concerns over hunting of both deer and feral hogs and asked if the Service had considered "birth control or other solutions to the overpopulation."

The DGIF supported the expansion of hunting on the Refuge. They add that they can assist the Service in developing additional hunting and fishing programs on the Refuge, as needed.

Hunting is one of the six priority recreation uses supported by the National Wildlife Refuge System. It has been determined that managed hunting is an appropriate and compatible recreation opportunity at Back Bay National Wildlife Refuge, and is an important tool for managing white-tailed deer and feral hog populations on the Refuge. This plan proposes to increase deer hunting opportunity at key locations on the north and west side of the Refuge.

Studies have documented the fact that birth control for feral hogs and white-tailed deer is not a practicle option in the field, due to the serum expense, cost of application, and ineffectiveness of the method.

Fishing (Letter ID#: 59)

A couple of letters were received about fishing. One letter, documented in the general section of the public access report, raised concerns about monofilament line impacting visuals and wildlife. Another letter brought up similar issues, claiming that broken lines and hooks are especially a threat to wildlife and waterfowl in shallow impoundments and canals. The commenter requests that consideration and additional research is needed for the preferred alternative.

Fishing is a priority public use, and an appropriate outdoor recreation use within the National Wildlife Refuge System. Public fishing activity on the Refuge is regulated through the State of Virginia, Department of Game and Inland Fisheries for freshwater, and the Marine Resources Commission for recreational saltwater fishing. The Refuge provides public education materials on environmentally friendly fishing practices, and currently conducts two fishing education workshops annually. As stated earlier, we are also concerned about potential negative impacts of the fishing lines and hooks to waterfowl and wading birds, and will consider reducing fishing where lotus is common due to the entanglement and hook-trapping potential that those plants pose.

The DGIF generally supports, and offers support for the Refuge's fishing programs. They support fishing access at Horn Point. However, they recommend that the structure be constructed as a fishing pier, which would allow "fishing parallel to the shoreline as opposed to a fishing platform which provides less space for anglers." They support continued nighttime fishing and recommend better access to Black Gut. They also recommend "development of an active management plan for the D-Pool, currently available for public fishing, which addresses the impoundment's poor fish population structure and water quality issues."

The Refuge plans for the Horn Point multi-use pier to be constructed with a parallel to shoreline design. The Refuge plans to add night surf fishing hours after revising access regulations. The Refuge's recreational fishing plan identifies Black Gut as a primitive recreational fishing opportunity/destination. The Refuge will cooperate with Virginia DGIF on developing a fishery management plan for D-Pool.

Transportation (roads, trails) (Letter ID#: 3, 21, 22, 23, 56, 60, 68, 73)

Many letters commented on the transportation system, including both roads and trails. The majority of respondents supported the expansion of the trail system. A lot of comments were received in support of the trail from Lago Mar to Sandbridge, also adding the desire to have a multipurpose trail from the new welcome center to connect with the Lago Mar to Sandbridge Trail. A petition was signed to expand the rustic trail system adjacent to the Lago Mar neighborhood. Several commenters noted that a bike trail along the Sandbridge Trail would increase safety.

One commenter had concerns about the traffic congestion and safety issues related to parking areas for canoe and kayak trails, particularly at Hell's Point Creek and Asheville Bridge Creek on

Sandbridge Road. The commenter mentioned that car entering to and exiting from the road would create a dangerous situation on the winding road.

The City of Virginia Beach had several comments related to the transportation system. They comment that the recommended Nimmo Parkway Trail is not in the CCP and recommend contacting the City with regards to incorporating this trail into the document. The city comments that they assume the relocation of the New Bridge Road associated with the headquarter relocation will be funded by the Service. They would also like more information and a potential cooperative relationship with regards to the Interpretive Scenic Byway Improvements. The city suggests consistent naming of trails throughout the document. They also mention that several trails in the CCP are not in the Virginia Beach outdoor plan, though they do support the trails. Finally, they suggest that major road labels are shown on the map for orientation.

We have no objection to the concept of the Lago Mar to Sandbridge Trail (the route of which is not yet specifically defined or mapped but would primarily be a City of Virginia Beach project along their right-of-way) but we cannot make a determination until we complete a NEPA analysis. The analysis will occur after we receive the City of Virginia Beach's plan, which should include details on developing a trailhead and spur from the proposed new Refuge Visitor Center to the Lago Mar portion of the trail. The City is currently developing its comprehensive trails management plan. A funding source for the proposed relocation of New Bridge Road to accommodate the new Refuge headquarters and proposed new Visitor Center is yet to be identified. Once the City's draft comprehensive trails plan is completed, the Refuge will provide formal comment to their plan, and ensure close communication on trail development proposals where there is mutual interest.

Lago Mar to Sandbridge Trail (Letter ID#: 4, 40, 41, 43, 68, 77)

A majority of the letters received about the transportation system were related to the proposed trail connecting Lago Mar and Sandbridge. All of the commenters supported the trail. Reasons for support included traffic safety, reduced emissions, recreation, and economics. Many commenters also requested a connectors trail to the new welcome center. One commenter was “strongly opposed to allowing horses on this trail.”

We have no objection to the concept of the Lago Mar to Sandbridge Trail (the route of which is not yet specifically defined or mapped but would primarily be a City of Virginia Beach project along their right-of-way), but we cannot make a determination until we complete a NEPA analysis. The analysis will occur after we receive the City of Virginia Beach's plan, which should include details on developing a trailhead and spur from the proposed new Refuge Visitor Center to the Lago Mar portion of the trail.

Safety (weapons) (Letter ID#: 59)

A commenter who lives adjacent to Tract #150 expressed concern over hunters ignoring private property boundaries. The commenter is concerned over stray bullets potentially causing harm, hunters not staying in their assigned zones, and ignoring no trespassing signs.

We abide by the current Code of Federal Regulations (50 CFR Part 32) regarding possession of firearms on refuge lands. Our hunt programs are designed to promote the safety of hunters and other visitors. Hunting is segregated from other uses on the refuge for visitor safety and to prevent visitor conflicts

Effective February 22, 2010, Section 512 of the Credit Card Accountability Responsibility and Disclosure Act of 2009, P.L. 111-24, 123 Stat. 1764-65, allows persons to possess firearms while in units of the National Park and National Wildlife Refuge Systems if they are in compliance with applicable Federal and State law.

Boating (Letter ID#: 59, 60, 68, 161)

Several comments were received regarding boating, including one comment from the City of Virginia Beach. There was some concern over safety issues and impacts from watercraft. One commenter noted that there has been increased jet ski use during the spring and summer, posing a safety risk to other users of Back Bay. Another comment stated that the proposed use of Asheville Bridge Creek should be abandoned due to safety reasons. They state that the location is on a curve and the mix of cars, parking, and people with canoes and kayaks is an accident waiting to happen. Another comment notes that if foot bridges are installed, they should be installed at a level to safely permit sailing crafts to pass underneath.

Back Bay National Wildlife Refuge has no jurisdiction over boating in the Bay, which includes jet ski use. We will assure safety through design, or we will not construct.

The Refuge supports low-impact boating access, such as canoeing and kayaking, on Back Bay, but has no jurisdiction to control recreational boating access on the bay. The Refuge does not permit trailers in any of its parking/launching areas, which assists in mitigating the impact of power water craft use on the bay. The Refuge distributes a cooperatively produced recreational boating brochure for Back Bay, which addresses the environmental sensitivity of this water body. There are also two interpretive signs, with a similar message, located at the Refuge headquarters canoe/kayak launch, and at the Horn Point canoe/kayak launch. The proposal for additional launch facilities and parking at Asheville Bridge Creek would include working with the City of Virginia Beach on safety improvements for Sandbridge Road at that location. The Refuge does not own the Lotus Garden/Pond property, but will work cooperatively with the City of Virginia Beach to manage safety and provide for natural resource protection at this and other locations.

Other comments raise the concern about impacts that canoes and kayaks have on the native American lotus. Specific locations mentioned where the lotus would be negatively impacted are Tabernacle Creek and Asheville Bridge Creek.

Refuge biologists have determined that the abundance and hardiness of the American lotus in Asheville Bridge and Tabernacle Creeks can easily withstand kayak passages and leaf damage caused by passing kayakers, as damaged or destroyed leaves and flowers are quickly replaced by its extensive root systems.

The City of Virginia Beach expressed support for the Lotus Garden Canoe/Kayak Launch Facility, Lovett's Landing Canoe/Kayak Launch Cooperative Project, and Hell's Point Creek Canoe/Kayak Launch.

The Refuge does not own the Lotus Garden/Pond property, but will work cooperatively with the City of Virginia Beach to manage safety and provide for natural resource protection at this and other locations.

Letter ID Numbers and Respondents

<u>Letter Number</u>	<u>Name</u>	<u>Organization</u>
1	Jerry Smith	
2	Bruce Drees	
3	R. Paul Fisher	
4	John D. Hendrickson	
5	Terry Ann Stevens	
6	Mike Sanson	
7	Steve and Kelly Rose	
8	John Carvalho	
9	Hugh Barton	
10	Todd and Sharon Poulos	
11	Al Henley	
12	Paul Dockery	
13	Carrie Dayball	
14	Wayne Benson	
15	David Cho	
16	Christine Warfel	
17	Ruth O'Lill	
18	Liz Romero-Kibiloski	
19	Anne Gassett	
20	Jane Collier	
21	Wayne Wilcox	Virginia Beach Parks & Recreation
22	Kate Button	
23	John Carvalho	
24	Kathleen Sarraino	
25	David Masters	
26	Mary Beth Husing	
27	Paul Husing	
28	Sharon Bivens	
29	Raymond Leach	
30	JoAnne Evangelista	
31	Lisa Conway	
32	Tim McDonald	
33	Chris Stellato	
34	Krystal Heffley	
35	Josh Sloan	
36	Katie Hutchins	
37	Victoria Stellato	
38	Bob Kern	
39	Teresa Cox	
40	Lynn Graybill	
41	April Alton	
42	Tausha Magrum	
43	William Brown	
44	Brandi Lewis	
45	Maggie Irby	
46	Robert Misfeldt	
47	Sharon Holstrom	

Public Involvement Summary

Effective conservation usually begins with effective community involvement. To ensure that our future management of the Refuge considers the issues, concerns, and opportunities expressed by the public, we used a variety of public involvement techniques in our planning process.

Public scoping. Open houses and public information meetings were held throughout the Virginia Beach area at three different locations during January of 2002. Meetings were advertised locally through news releases, paid advertisements, and through our mailing list. For each meeting, the “open house” session was planned where people could informally learn of the project, and have their questions or concerns addressed in a “one-on-one” situation. The evening public information meeting sessions usually included a presentation of the Refuge, a brief review of the Refuge System and the planning process, and a question and answer session. Participants were encouraged to actively express their opinions and suggestions. The public meetings allowed us to gather information and ideas from local residents, adjacent landowners, and various organizations and agencies.

Newsletters. An “Issues Workbook” was developed to encourage written comments on topics such as wildlife habitats, non-native nuisance species, and public access to the Refuge. In January 2002, these workbooks were mailed to a diverse group of over 1,500 people on our mailing list, given to people who attended a public meeting, and distributed to anyone who requested one. The workbook included questions to help collect ideas, concerns and suggestions from the public on important issues associated with managing the Refuge. We asked for input on issues and possible action options, the things people valued most about the Refuge, their vision for the future, and whether our recreational facilities meet public needs. We received more than 100 workbooks in response. In January 2007, we distributed a “planning newsletter.” In this newsletter, we shared the Refuge vision statement and goals and summarized our three management alternatives. In April 2010 we distributed an additional “planning newsletter” to announce the release of our draft CCP/EA and public meetings to request comments.

“Federal Register” Notices. We published our original Notice of Intent (NOI) in the “Federal Register” on May 8, 2002, stating we would develop an Environmental Impact Statement (EIS) for the Refuge in conjunction with its CCP. Then, as we evaluated the primary issues, the Service determined that an EA would be a more appropriate document than an EIS to accompany the CCP. The need to prepare an EIS is a matter of professional judgment requiring consideration of all issues in question. If the EA determines that the CCP will constitute a major Federal action significantly affecting the quality of the human environment, an EIS will then be prepared. The primary purpose of an EIS is to ensure that a full and fair discussion of all significant environmental impacts occurs and to inform decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. On February 23, 2007, our second NOI in the “Federal Register” advised the public we were withdrawing the previous notice and, instead of completing a CCP/EIS, would complete a CCP/EA. In preparing the draft CCP/EA, we considered all comments we had received after publishing the first NOI. A Notice of Availability (NOA) was published on March XX, 2010 for the release of the draft CCP/EA and public comments were received until May 1, 2010.

Workshops. The rationale of our workshops was to generate a range of possible solutions that would address issues of resource management and public use at the Refuge. From 2002 through 2007, we held workshops with various biological and

public use experts from Federal, state, local and non-profit organizations. Those workshops allowed us to work closely with our partners in discussing the vision, goals, objectives, strategies, and consequences at the heart of this plan.

The input we obtained from our public meetings, newsletters and workshops has been used to prepare this draft CCP/EA. The draft CCP/EA was released for released for 30 days of public review and comment. During that period, two additional public meetings were held to give the public additional opportunities to comment.

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